

Appl. No. 09/833,782  
Amendment and/or Response  
Reply to Office action of 21 April 2004

Page 9 of 13

REMARKS / DISCUSSION OF ISSUES

Claims 1-25 are pending in the application.

Claims are amended for non-statutory reasons to replace European-style claim phraseology with American-style claim language. The claims are not narrowed in scope and no new matter is added.

The Office action rejects claims 1-25 under 35 U.S.C. 101. The applicant traverses this specious rejection.

The Examiner's attention is requested to the applicant's FIGs. 1-4, which provide example embodiments of this invention using the technical arts.

In claims 1 and 2, upon which claims 3-7 depend, the applicant claims a method and system that maintains an inventory of apparel of a user, detects a selection of a piece of clothing from the inventory, updates the inventory, and provides a recommendation for another piece of clothing from this updated inventory, based on this selection. The applicant respectfully maintains that providing recommendations to a user to aid in the selection of clothing from the user's inventory is not "an abstract idea" as asserted in the Office action.

In claim 8, upon which claims 9 and 10 depend, the applicant claims a method of providing targeted advertisements to a user, based on a clothing profile of the user. The applicant respectfully maintains that providing targeted advertisements to a user based on a clothing profile is not "an abstract idea" as asserted in the Office action.

In claims 11 and 16, upon which claims 12-15 and 17-25 depend, the applicant claims a method and system for presenting a recommended ensemble to a user, based on an inventory of apparel possessed by a user. The applicant respectfully maintains that presenting a recommended ensemble to a user, based on the clothing possessed by a user is not "an abstract idea" as asserted in the Office action.

Because the applicant's claimed invention is a new and useful process or machine, the applicant respectfully maintains that the invention is patentable under 35 U.S.C. 101.

**Appl. No. 09/933,782**  
**Amendment and/or Response**  
**Reply to Office action of 21 April 2004**

**Page 10 of 13**

The Office action rejects claims 1-25 under 35 U.S.C. 112, first paragraph, based on the rejection under 35 U.S.C. 101. The applicant traverses this rejection based on the remarks above.

The Office action rejects claims 1-25 (mistakenly cited as claims 1-10 in paragraph 10 of the Office action) under 35 U.S.C. 102(c) over Suzuki (USP 6,313,745). The applicant respectfully traverses this rejection, based on the remarks provided in the applicant's preliminary amendment of 7 April 2004, and based on the following remarks.

In claims 1 and 2, upon which claims 3-7 depend, the applicant claims a method and system that maintains an inventory of apparel of a user, detects a selection of a piece of clothing from the inventory, updates the inventory, and provides a recommendation for another piece of clothing from this updated inventory, based on this selection.

Suzuki teaches a sales aid, wherein recommendations for possible subsequent sales to a customer are provided to a sales clerk. These recommendations are based on articles of clothing that the customer has brought into a fitting room, and optionally based on the customer's profile and prior purchases. That is, while the user is in the fitting room, the sales clerk is provided recommendations for additional sales to the customer. Suzuki notes that customers often outnumber sales clerks, and often the sales clerk has difficulty remembering current customers, their selections, and their assigned fitting rooms. Additionally, Suzuki notes, even the most experienced sales clerk has difficulty recalling all of the items in the store that might match a customer's preferences. (Suzuki, column 1, line 38 through column 2, line 9.) Suzuki specifically states: "Accordingly, there is a need for a system and method for tracking and recognizing merchandize items carried into a fitting room by a customer ... Such system should display the fitting room number being utilized by a particular customer on an in-store display terminal accessible to a store clerk. The system should further display information on items being tried on ... process the style, brand, color, and price data of the items in the fitting room, and provide recommendations of other items consistent with the analyzed data... [and optionally] consistent with the customer's profile information. ... The present invention addresses and alleviates the above-mentioned deficiencies associated with

**Appl. No. 09/933,782**  
**Amendment and/or Response**  
**Reply to Office action of 21 April 2004**

**Page 11 of 13**

the prior art. More particularly, the present invention comprises a system and method for recognizing and recommending items taken into a fitting room by a customer."

In the remarks provided in the applicant's preliminary amendment, the applicant noted that the "user" of Suzuki's system is the sales clerk, whereas in the applicant's claimed invention, the "user" is the user of the clothing.

The Office action asserts that the "user" of Suzuki's system is the customer, because the sales clerk is an aid to the user/customer (Office action, page 11, lines 2-4). The applicant respectfully disagrees with this characterization of Suzuki's system, based on the expressly stated purpose of Suzuki's invention, which is to ease the sales clerk's tasks, while potentially increasing sales.

Further, assuming in argument that Suzuki's "user" is the customer, Suzuki's invention does not provide a recommended piece of clothing from the user's inventory. Suzuki's invention provides a recommended piece of clothing for the user to buy, to potentially add to the user's inventory. Suzuki provides a recommendation from a store's inventory, and does not provide a recommendation for a recommended piece of clothing from a user's inventory, as specifically claimed in each of claims 1 and 2, upon which claims 3-7 depend.

Assuming further in argument that the optional customer profile provides information that can be considered to be the user's inventory of apparel, based on past sales, providing a recommendation for an item that the user already has in his/her inventory would be contrary to the expressed purpose of Suzuki's sales system.

Because Suzuki fails to teach a method and system that provides a recommendation for a piece of clothing from a user's inventory, as specifically claimed by the applicant, the applicant respectfully requests the Examiner's reconsideration of the rejection of claims 1-7 under 35 U.S.C. 102(c) over Suzuki.

In claim 8, upon which claims 9 and 10 depend, the applicant claims a method of providing targeted advertisements to a user, based on a clothing profile of the user.

Claim 8 specifically recites: "sending an identifier of the clothing product to the user".

As noted above, Suzuki teaches sending messages to a sales clerk while a customer is in a fitting room. The Office action asserts that sending information to a sales clerk is

Appl. No. 09/933,782  
Amendment and/or Response  
Reply to Office action of 21 April 2004

Page 12 of 13

equivalent to sending the information to a customer. The applicant respectfully disagrees, based on the inherent differences between a sales clerk and a customer, and particularly their different roles and objectives in a sales environment.

Because Suzuki fails to teach a method of providing targeted advertisement to a user that includes sending an identifier of a clothing product to the user, as specifically claimed, the applicant respectfully requests the Examiner's reconsideration of the rejection of claims 8-10 under 35 U.S.C. 102(e) over Suzuki.

In claims 11 and 16, upon which claims 12-15 and 17-25 depend, the applicant claims a method and system for determining subsets of clothing from an inventory of apparel possessed by a user for forming a recommended ensemble from the inventory.

Suzuki does not teach forming ensembles from clothing in a user's inventory. As noted in the applicant's prior remarks, forming an ensemble from clothing in a user's inventory is contrary to the expressed intent of Suzuki, because if the ensemble is formed from the user's inventory, the user has no need to purchase additional items via Suzuki's sales aid.

In response to the applicant's remarks, the Examiner asserts: "Suzuki at c 8, l 43-57, identifies the ensemble that was purchased...therefore an ensemble had to be recommended and of course it would have to fit the customer's inventory...interest...or the customer would not have made the purchase." (Office action, page 15, last 4 lines, ellipses in the original). The applicant respectfully disagrees with this assertion, and respectfully note that even if this assertion were supportable, the use of the term "inventory" in this assertion is contrary to the definition of inventory as conventionally used and as used in the applicant's claim. Webster defines "inventory" as: "an itemized list of current assets, as (1) a catalog of the property of an individual or estate (2) a list of goods on hand. The applicant claims "an inventory of apparel possessed by the user", and determining "one or more subsets of apparel from the inventory". An item is not in a person's inventory of apparel until and unless the person purchases it. Thus, providing a recommendation for a purchase of an item to be added to a person's inventory is not equivalent to providing a recommendation of items from the inventory.

The applicant further notes that Suzuki is silent with regard to forming an ensemble, and the Examiner's assertion that "Suzuki at c 8, l 43-57, identifies the ensemble that was

**Appl. No. 09/933,782**  
**Amendment and/or Response**  
**Reply to Office action of 21 April 2004**

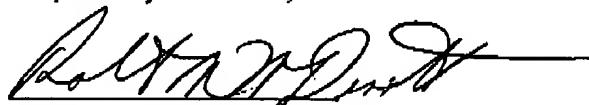
**Page 13 of 13**

purchased" is erroneous. In the context of this invention, Webster defines an "ensemble" as "a complete costume of harmonizing or complementary pieces". Suzuki teaches maintaining a record of the customer's prior purchases. A collection of prior purchases does not necessarily form an ensemble, nor are all items purchased to form a recommended ensemble, as asserted by the Examiner.

Because Suzuki does not teach determining one or more subsets of apparel from a user's inventory of apparel to provide a recommended ensemble, as specifically claimed by the applicant, the applicant respectfully requests the Examiner's reconsideration of the rejection of claims 11-25 under 35 U.S.C. 102(e) over Suzuki.

In view of the foregoing, the applicant respectfully requests that the Examiner withdraw the rejections of record, allow all the pending claims, and find the application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Robert M. McDermott, Attorney  
Registration Number 41,508  
patents@lawyer.com

1824 Federal Farm Road  
Montross, VA 22520  
Phone: 804-493-0707  
Fax: 215-243-7525